

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

PETER T. HARRELL,

Plaintiff, No. CIV S-05-0420 GEB CMK

VS.

DARRELL LEMOS, et al.,

## ORDER AND ORDER DIRECTING SERVICE

Defendants. BY THE UNITED STATES MARSHAL

## WITHOUT PREPAYMENT OF COSTS

## **WITHOUT PREPAYMENT OF COSTS**

Plaintiff is proceeding in forma pauperis pursuant to 28 U.S.C. § 1915. The court previously ordered plaintiff to provide information for service of process on form USM-285, sufficient copies of the complaint for service, and a notice of compliance. Plaintiff has filed the required papers. Accordingly, IT IS HEREBY ORDERED that:

1. The Clerk of the Court is directed to forward the instructions for service of process, the completed summons, copies of the complaint and copies of this order to the United States Marshal.

2. Within ten days from the date of this order, the United States Marshal is directed to notify defendants Mark Merril and Rick Riggins of the commencement of this action and to request a waiver of service in accordance with the provisions of Fed. R. Civ. P. 4(d) and 28 U.S.C. § 566(c).

1                   3. The U.S. Marshal is directed to retain the sealed summons and a copy of the  
2 complaint in their file for future use.

3                   4. The United States Marshal shall file returned waivers of service as well as any  
4 requests for waivers of service that are returned as undelivered as soon as they are received.

5                   5. If a waiver of service is not returned by a defendant within forty-five days from  
6 the date of mailing the request for waiver, the United States Marshal shall:

7                   a. Personally serve process and a copy of this order upon the defendant  
8 pursuant to Rule 4 of the Federal Rules of Civil Procedure and 28 U.S.C.  
9                   § 566(c).

10                  b. Within ten days after personal service is effected, the United States  
11                  Marshal shall file the return of service for the defendant, along with  
12                  evidence of any attempts to secure a waiver of service of process and of  
13                  the costs subsequently incurred in effecting service on said defendant.

14                  Said costs shall be enumerated on the USM-285 form and shall include the  
15                  costs incurred by the Marshal's office for photocopying additional copies  
16                  of the summons and complaint and for preparing new USM-285 forms, if  
17                  required. Costs of service will be taxed against the personally served  
18                  defendant in accordance with the provisions of Fed. R. Civ. P. 4(d)(2).

19                  6. Defendants shall reply to the complaint within the time provided by the  
20 applicable provisions of Fed. R. Civ. P. 12(a).

21                  7. Each party shall keep the court apprised of a current address at all times while  
22 the action is pending. Any change of address must be reported promptly to the court in a separate  
23 document captioned for this case and entitled "Notice of Change of Address." A notice of  
24 change of address must be properly served on other parties. Pursuant to Local Rule 83-182(d),  
25 service of documents at the record address of a party is fully effective. Failure to apprise the  
26 court of a change of address may result in the imposition of sanctions, which may include

1 || dismissal of the action.

2                   8. The failure of any party to comply with this order, the Federal Rules of Civil  
3 Procedure, or the Local Rules of Court, may result in the imposition of sanctions including, but  
4 not limited to, dismissal of the action or entry of default.

5 || DATED: August 10, 2006.

*Craig M. Kellison*  
**CRAIG M. KELLISON**  
UNITED STATES MAGISTRATE JUDGE